

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 4970 OF 2008

M/S AMBICA STEELS LTD.

...APPELLANT (S)

VERSUS

STATE OF U.P. & ORS.

...RESPONDENT(S)

ORDER

Shri Sorabjee, learned senior counsel appearing on behalf of the assessee, on instructions, states that the appellant – assessee will submit itself to the re-assessment proceedings initiated vide Show Cause Notice (see Annexure P-2). He further states that the assessee will file Form “F” with the Authority concerned within ten weeks from today.

On expiry of the period of ten weeks the Assessing Officer will take up re-assessment proceedings which will be completed within a period of three months, thereafter.

At this stage, it may be mentioned that on the scope and applicability of Section 6A of the Central Sales Tax Act, 1956, there exists difference of opinion between the various Sales Tax Collectors in the country and therefore since the Appellant is now ready to file Form “F”, we are directing the Assessing Officer not to impose penalty/interest, in the re-assessment proceedings as one time waiver. Needless to add that waiver of penalty and interest shall be admissible only on Form “F” being furnished by the assessee within the prescribed period.

The appellant has deposited a sum of Rs.1,00,00,000/- (one crore) on 27th December, 2008, under protest vide letter of even date. It is made clear that the said amount shall be refunded to the assessee herein within a period of two weeks after the

completion of re-assessment proceedings, subject to adjustment, if any, in the Duty assessed.

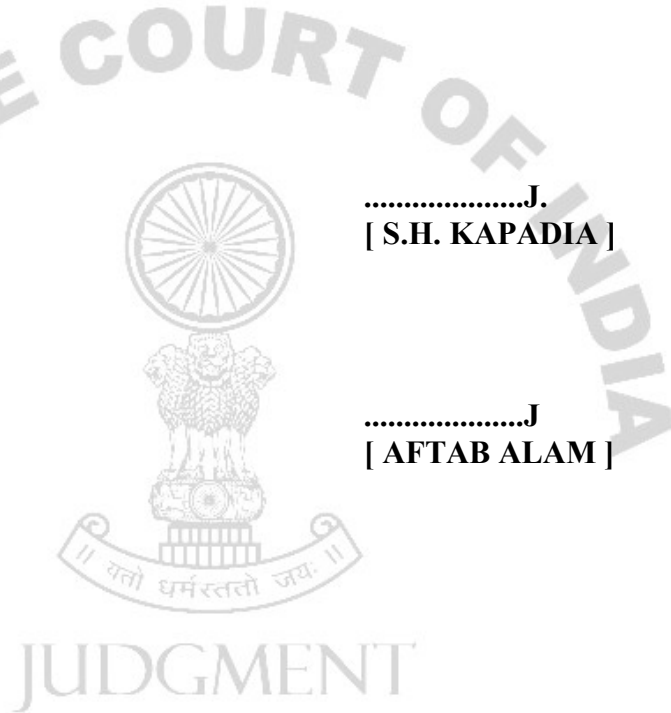
We are informed that certain State(s) within whose jurisdiction the transferee is located is/are not issuing “F” Forms. In such an eventuality it would be open to the Assessing Officer to complete re-assessment proceedings on its own merits after examining the transaction between the parties, keeping in mind the circumstance that the assessee is not in a position to obtain the “F” Form, for no fault of his.

Accordingly, this civil appeal is disposed of with no order as to costs.

New Delhi,
March 31, 2009

.....J.
[S.H. KAPADIA]

.....J
[AFTAB ALAM]



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2108 OF 2009
(Arising out of SLP(C) No.6478 of 2008)

M/S QUANTUM ENGG. & FABRICATORS PVT. LTD. ...APPELLANT (S)

VERSUS

STATE OF U.P. & OTHERS

...RESPONDENT(S)

ORDER

Leave granted.

Shri Monish Panda, Advocate, appearing on behalf of the assessee, on instructions, states that the appellant – assessee will submit itself to the re-assessment proceedings which are pending hearing and final disposal. The assessee will file Form “F” with the Authority concerned within ten weeks from today.

On expiry of the period of ten weeks the Assessing Officer will take up re-assessment proceedings which will be completed within a period of three months, thereafter.

At this stage, it may be mentioned that on the scope and applicability of Section 6A of the Central Sales Tax Act, 1956, there exists difference of opinion between the various Sales Tax Collectors in the country and therefore since the Appellant is now ready to file Form “F”, we are directing the Assessing Officer not to impose penalty/interest, in the re-assessment proceedings as one time waiver. Needless to add that waiver of penalty and interest shall be admissible only on Form “F” being furnished by the assessee within the prescribed period.

The appellant has deposited a sum of Rs.7,76,755/-(Rupees seven lakhs, seventy

six thousand, seven hundred fifty five) under protest. It is made clear that the said amount shall be refunded to the assessee herein within a period of two weeks after the completion of re-assessment proceedings, subject to adjustment, if any, in the Duty assessed.

We are informed that certain State(s) within whose jurisdiction the transferee is located is/are not issuing “F” Forms. In such an eventuality it would be open to the Assessing Officer to complete re-assessment proceedings on its own merits after examining the transaction between the parties, keeping in mind the circumstance that the assessee is not in a position to obtain the “F” Form, for no fault of his.

Accordingly, this civil appeal is disposed of with no order as to costs.

New Delhi,
March 31, 2009

.....J.
[S.H. KAPADIA]

.....J
[AFTAB ALAM]



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4976 OF 2008

M/S SUBH UDYOG

...APPELLANT (S)

VERSUS

STATE OF U.P. & OTHERS

...RESPONDENT(S)

ORDER

Shri Yunus Malik, Advocate, appearing on behalf of the assessee, on instructions, states that the appellant – assessee will submit itself to the re-assessment proceedings which are pending final disposal. The assessee will file Form “F” with the Authority concerned within ten weeks from today.

On expiry of the period of ten weeks the Assessing Officer will take up re-assessment proceedings which will be completed within a period of three months, thereafter.

At this stage, it may be mentioned that on the scope and applicability of Section 6A of the Central Sales Tax Act, 1956, there exists difference of opinion between the various Sales Tax Collectors in the country and therefore since the Appellant is now ready to file Form “F”, we are directing the Assessing Officer not to impose penalty/interest, in the re-assessment proceedings as one time waiver. Needless to add that waiver of penalty and interest shall be admissible only on Form “F” being furnished by the assessee within the prescribed period.

We are informed that certain State(s) within whose jurisdiction the transferee is located is/are not issuing “F” Forms. In such an eventuality it would be open to the

Assessing Officer to complete re-assessment proceedings on its own merits after examining the transaction between the parties, keeping in mind the circumstance that the assessee is not in a position to obtain the “F” Form, for no fault of his.

Accordingly, this civil appeal is disposed of with no order as to costs.

.....J.
[S.H. KAPADIA]

New Delhi,
March 31, 2009

.....J
[AFTAB ALAM]



SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 4970 OF 2008

M/S AMBICA STEELS LTD.

Appellant (s)

VERSUS

STATE OF U.P. & ORS.

Respondent(s)

(With appln. for permission to file addl. documents and with prayer for interim relief)

WITH

CIVIL APPEAL NO. 4976 OF 2008 – With prayer for interim relief and office report

SLP(C) NO. 6478 of 2008 – With prayer for interim relief and Office Report

Date: 31/03/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA

HON'BLE MR. JUSTICE AFTAB ALAM

For Appellant(s) in CA 4970/08:

Mr. Soli J. Sorabjee, Sr.Adv.
Mr. M.L. Verma, Sr.Adv.
Mr. R.K. Sanghi, Adv.
Mr. N.M. Sharma, Adv.
Mr. Arvind Rajput, Adv.
Ms. Shuriti Rao, Adv.

Mr. Anil Kumar Tandale, Adv.

In CA 4976/08:

Mr. Yunus Malik, Adv.
Mr. Ravi Kishore, Adv.
Ms. Vijayshree, Adv.
Mr. Prashant Chaudhary, Adv.

In SLP 6478/08:

Mr. Monish Panda, Adv.	_____
Mr. Pawan Shree Aggarwal, Adv.	_____
Mr. M.P. Devanath, Adv.	_____

For Respondent(s)

Mr. Dinesh Dwivedi, Sr.Adv.
Mr. S.K. Dwivedi, AAG.
Mr. Aarohi Bhalla, Adv.
Mr. Manoj Kumar Dwivedi, Adv.
Mr. Prateek Dwivedi, Adv.
Mr. Gunnam Venkateswara Rao.Adv.

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**UPON hearing counsel the Court made the following
O R D E R**

Leave granted in SLP(C) No. 6478 of 2008.

The appeals are disposed of with no order as to costs.

**(S. Thapar)
PS to Registrar**

**(Madhu Saxena)
Court Master**

Three signed orders are placed on the file.

